

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

WILLIAM FOUNT SHATSWELL

Petitioner,

v.

JOE EASTERLING, WARDEN,

Respondent.

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**No. 3:11-cv-00905
Judge Trauger**

ORDER

The court has before it a petition for a writ of *habeas corpus* brought under 28 U.S.C. § 2254. (Docket No. 1). The petitioner, proceeding *pro se*, is an inmate at the Hardeman County Correctional Facility in Whiteville, Tennessee. The petitioner has submitted an application to proceed *in forma pauperis*. (Docket No. 2).

It appears from the petitioner's application that he cannot afford to pay the filing fee. Therefore, the Clerk will **FILE** the petition *in forma pauperis*. 28 U.S.C. §§ 1915(a), (b)(4).

In his petition, Mr. Shatswell states that currently he has a state post-conviction petition pending in the "Criminal Court of Sumner County at Gallatin, Tennessee" bearing Docket Number 470-2010.¹ (Docket No. 1 at p. 8). Thus, the court finds that the petition is premature as the petitioner has not fully exhausted the state court process at this time. Accordingly, his § 2254 petition is **DISMISSED WITHOUT PREJUDICE**.

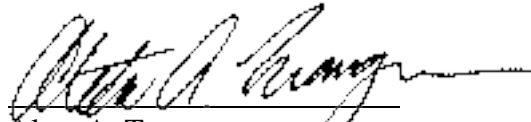
Should the petitioner file a timely notice of appeal from this order, such notice shall be docketed as both a notice of appeal and an application for a certificate of appealability, 28 U.S.C. § 2253(c); Rule 22(b), Fed. R. App. P.; *see Slack v. McDaniel*, 529 U.S. 473, 483 (2000), which will **NOT** issue because the petitioner has failed to make a substantial showing of the denial of a

¹Mr. Shatswell's petition indicates that the name of the court that entered the judgment of conviction he is challenging is the Circuit Court of Sumner County, at Gallatin, Tennessee, for the 18th Judicial District of Tennessee. (Docket No. 1 at p. 1).

constitutional right as his § 2254 petition is premature. *Castro v. United States of America*, 310 F.3d 900, 901 (6th Cir. 2002)(citing *Lyons v. Ohio Adult Parole Auth.*, 105 F.3d 1063, 1072 (6th Cir. 1997) and *Murphy v. Ohio*, 263 F.3d 466, 467 (6th Cir. 2001)).

Entry of this order constitutes final judgment in this case.

It is so **ORDERED**.


Aleta A. Trauger
United States District Judge